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OFFICE OF PETITIONS

In re Application of :
Lionell K. Griffith :
Application No. 10/687,180 : DECISION ON PETITION
Filed: 15 October, 2003 :
Attorney Docket No. 7171- :
109/10207852 :

This is a decision on the petition filed on 29 November, 2005, under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 26 October, 2005, for failure to timely file a proper reply to the final Office action mailed on 25 May, 2005, which set a three (3) month shortened statutory period for reply. On 11 October, 2005, an amendment after final rejection and request for a two (2) month extension of time in accordance with 37 CFR 1.136(a) were filed. However, the examiner determined that the amendment did not *prima facie* place

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

the application in condition for allowance. An Advisory Action Before the Filing of An Appeal Brief was mailed on 26 October, 2005. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner has filed a Request for Continued Examination (RCE) and fee as the required reply, and indicated that the previously filed amendment after final rejection is the submission required by 37 CFR 1.114.

This application is being referred to Technology Center Art Unit 2882 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

A handwritten signature in black ink, appearing to read "D. I. Wood", is positioned above the printed name.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions